т	of the State of California
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	BEFORE THE
8	BOARD OF REGISTERED NURSING DEPARTMENT OF CONSUMER AFFAIRS
9	STATE OF CALIFORNIA
10	
	In the Matter of the Accusation Against: Case No. 2009-185
11	ELI ROBERT BEAULIEU
12	8941 Palomar Ave. ACCUSATION
13	Atascadero, CA 93422
.	Registered Nurse License No. 673172
14	Respondent.
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16	Complainant alleges:
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17	<u>PARTIES</u>
18	1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation
19	solely in her official capacity as the Executive Officer of the Board of Registered Nursing,
20	Department of Consumer Affairs.
21	2. On or about February 7, 2006, the Board of Registered Nursing issued
22	Registered Nurse License Number 673172 to Eli Robert Beaulieu (Respondent). The Registered
23	Nurse License was in full force and effect at all times relevant to the charges brought herein and
24	will expire on July 31, 2009, unless renewed.
25	<u>JURISDICTION</u>
26	3. This Accusation is brought before the Board of Registered Nursing
27	(Board), Department of Consumer Affairs, under the authority of the following laws. All section
28	references are to the Business and Professions Code (Code) unless otherwise indicated.

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- 4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.
- 5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.

## STATUTORY AND REGULATORY PROVISIONS

- 6. Section 2761 of the Code provides, in pertinent part, that the Board may take disciplinary action against a certified or licensed nurse for any of the following:
- (a) Unprofessional conduct, including but not limited to, (1) incompetence, or gross negligence in carrying out usual certified or licensed nursing functions; and/or
- (f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.
- 7. Section 490 of the Code provides, in pertinent part, that the Board may discipline a license because the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.
- 8. California Code of Regulations, title 16, section 1444 provides that a conviction or act shall be considered substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with public health, safety, or welfare. Such convictions or acts shall include but not be limited to assaultive or abusive conduct such as those violations listed in subdivision (d) of Penal Code Section 11160, and any conviction or act subject to an order of registration pursuant to Section 290 of the Penal Code.
- 9. Penal-Code section \$1160, subdivision (d), provides in pertinent part that "assaultive or abusive conduct" shall include abuse of a spouse or cohabitant, in violation of Section 273.5, as well as any attempt to commit this crime.

- 10. Section 2762 of the Code provides, in pertinent part, that in addition to other acts constituting unprofessional conduct, it is unprofessional conduct for a nurse to:
- (a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance or any dangerous drug or dangerous device.
- (b) Use any controlled substance or any dangerous drug or dangerous device, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.
- (c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof.

## CAUSE FOR DISCIPLINE

- 11. Respondent is subject to disciplinary action under section 2761(f) and/or 490 of the Code, by reference to California Code of Regulations, title 16, section 1444 and/or to Penal Code section 11160(d), for conviction of a crime substantially related to the qualifications, functions, and duties of a registered nurse, in that on or about March 13, 2008, in a criminal proceeding titled *People v. Eli Robert Beaulieu*, Case No. F16320 in Santa Cruz County Superior Court, Respondent was convicted of violating Penal Code section 273.5, subdivision (a) (Willful Infliction of Corporal Injury to Spouse/Cohabitant/Child's Parent), a misdemeanor, as follows:
- a. On or about December 5, 2007, Santa Cruz Police arrested Respondent at his residence on suspicion of violation of Penal Code section 273.5, subdivision (a), based on Respondent's own statements and injuries to his girlfriend's face;
- b. Onorrabout January 15, 2008, in People v. Eli Robert Beaulieu, Case No. F16320 in Santa Cruz County Superior Court, Respondent was charged with violation of Penal Code section 273.5, subdivision (a), a felony, and also with violation of Penal Code section 594, subdivision (a) (Vandalism under \$400 damage), a misdemeanor;

c. On or about January 17, 2008, a protective order was issued prohibiting or limiting Respondent's contact with the alleged victim of the injury;

d. On or about March 13, 2008, the criminal charges against Respondent in Case No. F16320 were amended to substitute a misdemeanor charge under Penal Code section 273.5, subdivision (a) for the prior felony charge. Respondent then pleaded *nolo contendere* to the amended (misdemeanor) first count. The second count was dismissed pursuant to the plea. Imposition of sentence was suspended in favor of a period of formal probation of 36 months on terms and conditions including 90 days in county jail (2 days CTS), with furlough recommended, fines and fees (including domestic violence and battered women's shelter assessments), entry and completion of a 52-week domestic violence program, and 20 hours of volunteer service.

## **DISCIPLINE CONSIDERATIONS**

Complainant alleges that on or about February 19, 1999, in a criminal case titled *People v. Eli Robert Beaulieu*, Case No. M000278639 in San Luis Obispo County Superior Court, Respondent was also convicted of violating Vehicle Code section 23103 by reference to Vehicle Code section 23103.5 (Reckless Driving with Alcohol Involved), a misdemeanor. Pursuant to statute, this was a plea substituted for the original charges of violating Vehicle Code section 23152, subdivision (a) (Driving While Under the Influence of Alcohol/Drugs) and subdivision (b) (Driving With Blood Alcohol In Excess of 0.08%), as provided for in Vehicle Code section 23103.5.

## **PRAYER**

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

- 1. Revoking Dir suspending Registered Nurse License Number 673172, issued to Eli Robert Beaulieu (Respondent),
- 2. Ordering Respondent to pay the Board reasonable costs of investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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1	3. Taking such other and further action as is deemed necessary and proper.
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3	DATED: 2/26/09
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5	Reto One Type
6	RUTH ANN TERRY, M.P.H., R.N. Executive Officer
7	Board of Registered Nursing Department of Consumer Affairs
8	State of California Complainant
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